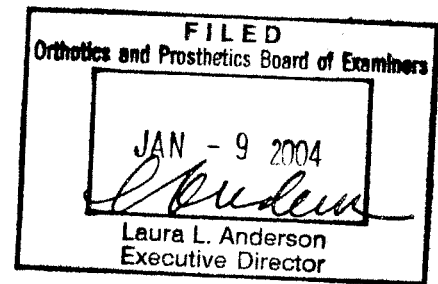


PETER HARVEY
ATTORNEY GENERAL OF NEW JERSEY
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102
Attorney for the New Jersey Orthotics and
Prosthetics Board of Examiners

By: Carmen A. Rodriguez
Deputy Attorney General
(973) 648-3696



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
ORTHOTICS AND PROSTHETICS BOARD OF
EXAMINERS

IN THE MATTER OF THE DENIAL OF :
THE LICENSE APPLICATION OF :

RICHARD JOHN BRAY :

TO PRACTICE PROSTHETICS AND :
ORTHOTICS IN THE STATE OF :
NEW JERSEY :

Administrative Action

PROVISIONAL ORDER
DENYING LICENSURE

This matter was opened to the New Jersey Orthotics and Prosthetics Board of
Examiners upon receipt of information which the Board has reviewed and on which the
following preliminary findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Richard John Bray, (hereinafter, Respondent) residing at 16 Quail Run, Old Tappan New Jersey, on December 12, 2002 filed an application for licensure to practice as a Prosthetist -Orthotist in the State of New Jersey under the grandfather clause pursuant to N.J.S.A. 12B-12 and affirmed in that application that the statements made therein are truthful. (Exhibit A attached and made a part hereto)

2. Respondent answered yes to the question # 3 on the application that he was convicted of a criminal offense.

3. The Judgement of Conviction indicated that respondent plead guilty to one count of criminal sexual contact, a 4th degree crime, in violation of N.J.S.A. 2C:14-3(b). (Exhibit B attached and made a part hereto). Respondent was sentenced on September 6, 2002 to three (3) years probation beginning with random drug and alcohol testing, maintaining gainful employment, intensive psychological counseling and therapy on a weekly basis with Dr. Dennis J. Cheteyan, no contact with victim. Megan's Law and DNA testing applied. Community supervision for life did not apply.

4. Upon review of the testimony of Respondent at the June 30, 2003 inquiry (Exhibit C attached and made a part hereto) the facts in this matter demonstrated that the crime was committed against a 16 year old female at the home of the respondent. The female was a life long friend of the respondent's daughter. The respondent's testimony at the inquiry alleged that D.H. was the aggressor and that respondent stopped his conduct almost immediately. Respondent further testified that he was 50 years old at the time of

the crime and that his diabetes was a contributing social factor and that respondent has only been convicted of one crime.

5. According to the interview reports taken by the Bergen County Prosecutor's Office of the victim and the respondent, (Exhibit D attached and made a part hereto) the respondent claimed that the victim returned to his home with his daughter and a friend after getting ill at the movie theater. His daughter and D.H.'s friend left the house to look for a misplaced cell phone. D.H. remained at the house and was not feeling well, Respondent told D.H. to lay down on the bed in his bedroom. He rubbed her back and slipped his hand into her underpants and proceeded to have sexual contact with D.H.

6. Respondent is the owner and operator of Bray Orthotics and Prosthetics in Westwood, New Jersey. He testified that he see about 45 to 90 patients per month. He is involved in the construction of foot orthotics, angle foot orthoses, knee braces, hip orthotics, scoliosis braces, partial foot prostheses, transtibial prosthetics, and diabetic foot care. Upon questioning from the Board, the respondent described his practice as 80% adults and 20% children. The scoliosis cases are usually children between the ages of 12 through 16. Direct care of the patients is done in his office, patient's home, nursing homes or the hospital. (Exhibit C attached and made a part hereto)

7. The Board reviewed correspondence received from Frank J. Pico, Master Probation Officer dated September 30, 2003 who confirmed that respondent has been under the immediate supervision of the Bergen County Probation Office since September 6, 2002. The letter further advised that respondent maintains private weekly sex therapy sessions with Dr. Rand, has submitted the required DNA sample, has registered as a sex

offender and has demonstrated "sincerity and insight into what is required and expected of him. " (Exhibit E attached and made a part hereto).

8. Dennis J. Cheteyan, Ed.D submitted correspondence dated June 2, 2003 regarding his knowledge of respondent as he conducted the mental health status evaluation of respondent and endorsed his candidacy for licensure. (Exhibit F attached and made a part hereto)

9. Melvin A. Rand, Ph.D submitted correspondence confirming respondent's participation in specialized sexual offender psychotherapy since December 11, 2002. (Exhibit G attached and made a part hereto)

CONCLUSIONS OF LAW

The above preliminary findings of facts provide grounds for the denial of respondent's application for licensure as a prosthetist-orthotist pursuant to N.J.S.A 45:1-21(f) in that the respondent has been convicted of a crime involving moral turpitude or relating adversely to the activity regulated by the Board. For purposed of this section a plea of guilty shall be deemed a conviction.

Discussion

In reaching these provisional findings of fact and conclusions of law the Board considered that respondent's practice includes care of scoliosis patients which makes him accessible to young females in the home, office or clinical setting between the ages of 12 through 16. The Board has taken into consideration that he was 50 at the time of the

offense and the victim was 16; the seriousness of the crime and the circumstances under which the crime was committed. While the crime did not occur in the professional setting, the Board has noted that the duties of an prosthetist-orthotist would enable respondent to be in frequent contact with young children or adolescents both at his office and in a home or clinical setting. Thus, the potential exists for respondent to be in close contact with young females under circumstances where no other adults may be present. Respondent further has not completed his court ordered probation, having completed one year on September 6, 2003 nor his requirement to continue with his weekly psychological counseling regiment. Therefore, the Board provisionally finds that respondent has not evidenced that he has been rehabilitated. Furthermore, the Board has concluded that until Respondent has successfully completed the period of probation and the required psychological counseling he will not be able to demonstrate sufficient rehabilitation from his criminal conduct so as to qualify for a prosthetist-orthotist license.

ACCORDINGLY, IT IS on this *9th* day of *Jan*, 2004

ORDERED that:

1. Respondent's application for license to practice as a prosthetist-orthotist under the grandfather application in the State of New Jersey be and hereby is provisionally denied .
2. Prior to reapplying for a license to practice in New Jersey, respondent shall be required to appear before the Board (or a committee thereof) to demonstrate fitness to practice and to confirm that he has sucessfully completed his probation and the terms

of his sentencing. In addition, the Board reserves the right to place restrictions on respondent's practice should his license be issued.

3. Respondent shall cease and desist from providing orthotics or prosthetics until licensed.

4. The within Order shall be subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry hereof unless respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to Laura Anderson , Executive Director, Orthotics and Prosthetics Board of Examiners , 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101.

b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor or offered in mitigation of penalty.

d) Affirmatively demonstrating clear and convincing evidence of rehabilitation. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. the nature and responsibility of the position which the convicted person would hold, has held or currently holds, as the case may be;

ii. the nature and seriousness of the offense;

iii. the circumstances under which the offense occurred;

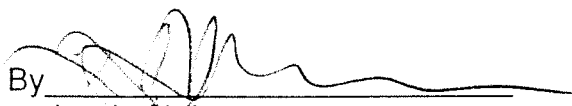
iv. the date of the offense;

v. the age of the person when the offense was committed;
vi. whether the offense was an isolated or repeated incident;
vii. any social conditions which may have contributed to the offense; and
viii. any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in corrections work-release programs, or the recommendation of those who have had the person under their supervision.

5. Any submissions will be reviewed by the Board, and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that submitted materials merit further consideration, a Final Order of Discipline will be entered.

6. In the event that respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified with regard thereto. Further, in the event a hearing is held and upon review of the record, the Board shall not be limited to the findings, conclusions and sanctions herein.

NEW JERSEY ORTHOTICS AND PROSTHETICS
BOARD OF EXAMINERS

By 
Louis Haberman,
Board President